

By: Representatives Turner, Arnold, Boyd  
(19th), Felsher

To: Judiciary A

HOUSE BILL NO. 297

1 AN ACT TO PROHIBIT A PERSON FROM SITTING, LYING, SLEEPING, OR  
2 STORING, USING, MAINTAINING OR PLACING PERSONAL PROPERTY UPON ANY  
3 STREET, SIDEWALK OR OTHER PUBLIC RIGHT-OF-WAY WITHIN 1,000 FEET OF  
4 A DEFINED SENSITIVE AREA OR A CRITICAL INFRASTRUCTURE AREA AND TO  
5 PROVIDE THAT VIOLATION OF THIS PROHIBITION IS A PUBLIC NUISANCE  
6 THAT CAN BE ABATED AND PREVENTED; TO PROVIDE THAT A VIOLATION OF  
7 THIS PROHIBITION MAY BE CHARGED AS A MISDEMEANOR; TO REQUIRE AT  
8 LEAST 48 HOURS' NOTICE BEFORE COMMENCEMENT OF ANY ENFORCEMENT  
9 ACTION; TO AMEND SECTION 21-19-11, MISSISSIPPI CODE OF 1972, TO  
10 INCLUDE HOMELESS ENCAMPMENTS ON PRIVATE PROPERTY IN THE PUBLIC  
11 NUISANCE LAW AND TO PROVIDE THAT THE COST OF ABATING SUCH  
12 ENCAMPMENT NUISANCES ON PRIVATE PROPERTY IS A LIEN ON THE PROPERTY  
13 WHICH MAY BE WAIVED BY THE MUNICIPALITY; AND FOR RELATED PURPOSES.

14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

15 **SECTION 1.** (1) As used in this section, the following terms  
16 shall have the meaning ascribed herein:

17 (a) "Law enforcement officer" means a member of the  
18 municipal police department wherein the applicable property is  
19 located or a member of the local sheriff's department wherein the  
20 applicable property is located.

21 (b) "Sensitive area" means a public or private school,  
22 community college or university, a daycare or other residential  
23 facility, a public park, or a library.



24 (c) "Critical infrastructure" means real property or a  
25 facility, whether privately or publicly owned, that the local  
26 governing authority or board of supervisors designates as being so  
27 vital and integral to the operation or functioning of the  
28 municipality or county or in need of protection that its damage,  
29 incapacity, disruption or destruction would have a debilitating  
30 impact on the public health, safety or welfare, including, but not  
31 limited to, roads, railroad rights-of-way, bridges, canals and  
32 other waterways, sewer plants, police and fire stations, drainage  
33 systems, electrical and natural gas pipelines or public utility  
34 easements.

35 (d) "Homeless encampment" means an outdoor location  
36 where one or more homeless people live in an unsheltered area,  
37 including tents, shacks, vehicles or other structures which are  
38 not provided utility services paid by the person(s) living in the  
39 area.

40 (2) A person shall not sit, lie, sleep or store, use,  
41 maintain, or place personal property upon any street, sidewalk or  
42 other public right-of-way within one thousand (1,000) feet of a  
43 sensitive area or critical infrastructure.

44 (3) A violation of this is a public nuisance that may be  
45 enjoined, abated, and prevented. The local district, county  
46 attorney, or the city attorney of the applicable jurisdiction, in  
47 the name of the citizens of that jurisdiction, may maintain an  
48 action to abate and prevent the nuisance. Before pursuing



49 abatement authorized by this subsection, the district attorney,  
50 county attorney or city attorney, as applicable, shall ensure that  
51 the person found to be in violation of this section has received  
52 verbal or written information regarding alternative locations to  
53 sleep, homeless and mental health services or homeless shelter in  
54 the area.

55 (4) A violation of this section may be charged as a  
56 misdemeanor, at the discretion of the city attorney or district  
57 attorney, punishable upon conviction thereof, by a fine not  
58 exceeding Five Thousand Dollars (\$5,000.00), and/or incarceration  
59 in the county jail for not exceeding six (6) months.

60 (5) A person shall not be found to be in violation of this  
61 section unless a law enforcement officer employed by the county or  
62 city, as applicable, with jurisdiction, has provided that person  
63 written notice, at least forty-eight (48) hours before  
64 commencement of any enforcement action, that the person is  
65 prohibited from sitting, lying, sleeping or storing, using,  
66 maintaining or placing personal property upon a street, sidewalk  
67 or other public right-of-way within one thousand (1,000) feet of a  
68 sensitive area or critical infrastructure area pursuant to this  
69 section. A written notice shall only be deemed to have been  
70 provided for the purposes of this paragraph if the notice is given  
71 in a language understood by the person receiving the notice.

72 (6) The owner of real property located in a municipality or  
73 county has the right to request the assistance of law enforcement



74 officers with jurisdiction to remove a homeless encampment or to  
75 set up any barriers or other methods to prevent homeless  
76 encampments. The removal of homeless persons or homeless  
77 encampments on private property shall be done in a humane manner.  
78 It is illegal to inflict harm on the trespassers or damage their  
79 personal property. A tent or temporary structure shall not be  
80 considered their personal property. If a homeless encampment is  
81 on public property, only local law enforcement officers or  
82 officers of the sheriff department may remove the encampment or  
83 set up barriers.

84       **SECTION 2.** Section 21-19-11, Mississippi Code of 1972, is  
85 amended as follows:

86       21-19-11. (1) To determine whether property or parcel of  
87 land located within a municipality is in such a state of  
88 uncleanliness as to be a menace to the public health, safety and  
89 welfare of the community, a governing authority of any  
90 municipality \* \* \* may conduct a hearing, on its own motion, or  
91 upon the receipt of a petition signed by a majority of the  
92 residents residing within four hundred (400) feet of any property  
93 or parcel of land alleged to be in need of the cleaning. Notice  
94 shall be provided to the property owner by:

95           (a) United States mail two (2) weeks before the date of  
96 the hearing mailed to the address of the subject property, except  
97 where the land or structure(s) is apparently vacant, and to the



98 address where the ad valorem tax notice for such property is sent  
99 by the office charged with collecting ad valorem tax; and

100 (b) Posting notice for at least two (2) weeks before  
101 the date of a hearing on the property or parcel of land alleged to  
102 be in need of cleaning and at city hall or another place in the  
103 municipality where such notices are posted.

104 Any notice required by this section shall include language  
105 that informs the property owner that an adjudication at the  
106 hearing that the property or parcel of land is in need of cleaning  
107 will authorize the municipality to reenter the property or parcel  
108 of land for a period of two (2) years after final adjudication  
109 without any further hearing if notice is posted on the property or  
110 parcel of land and at city hall or another place in the  
111 municipality where such notices are generally posted at least  
112 seven (7) days before the property or parcel of land is reentered  
113 for cleaning. A copy of the required notice mailed and posted as  
114 required by this section shall be recorded in the minutes of the  
115 governing authority in conjunction with the hearing required by  
116 this section.

117 If, at such hearing, the governing authority shall adjudicate  
118 the property or parcel of land in its then condition to be a  
119 menace to the public health, safety and welfare of the community,  
120 the governing authority, if the owner does not do so  
121 himself, \* \* \* may proceed to clean the land, by the use of  
122 municipal employees or by contract, by cutting grass and weeds;



123 filling cisterns; securing abandoned or dilapidated buildings;  
124 removing rubbish, abandoned or dilapidated fences, outside  
125 toilets, abandoned or dilapidated buildings, slabs, personal  
126 property \* \* \* which removal of personal property shall not be  
127 subject to the provisions of Section 21-39-21, and other debris;  
128 removal of homeless encampments; and draining cesspools and  
129 standing water therefrom. The governing authority may by  
130 resolution adjudicate the actual cost of cleaning the property  
131 and/or removal of homeless encampments and may also impose a  
132 penalty not to exceed \* \* \* Ten Thousand Dollars (\$10,000.00) or  
133 fifty percent (50%) of the actual cost, whichever is more. The  
134 cost and any penalty may become a civil debt against the property  
135 owner, and/or, at the option of the governing authority, an  
136 assessment against the property. The "cost assessed against the  
137 property" means either the cost to the municipality of using its  
138 own employees to do the work or the cost to the municipality of  
139 any contract executed by the municipality to have the work done,  
140 and administrative costs and legal costs of the municipality. For  
141 subsequent cleaning within the one-year period after the date of  
142 the hearing at which the property or parcel of land was  
143 adjudicated in need of cleaning, upon seven (7) days' notice  
144 posted both on the property or parcel of land adjudicated in need  
145 of cleaning and at city hall or another place in the municipality  
146 where such notices are generally posted, and consistent with the  
147 municipality's adjudication as authorized in this subsection (1),



148 a municipality may reenter the property or parcel of land to  
149 maintain cleanliness without further notice or hearing no more  
150 than six (6) times in any twelve-month period with respect to  
151 removing or securing abandoned or dilapidated buildings, slabs,  
152 dilapidated fences and outside toilets, and no more than twelve  
153 (12) times in any twenty-four-month period with respect to cutting  
154 grass and weeds and removing rubbish, personal property and other  
155 debris on the land, and the expense of cleaning of the property,  
156 except as otherwise provided in this section for removal of  
157 hazardous substances, shall not exceed an aggregate amount of  
158 Twenty Thousand Dollars (\$20,000.00) per year, or the fair market  
159 value of the property subsequent to cleaning, whichever is more.  
160 The aggregate cost of removing hazardous substances will be the  
161 actual cost of such removal to the municipality and shall not be  
162 subject to the cost limitations provided in this subsection. The  
163 governing authority may assess the same penalty for each time the  
164 property or land is cleaned as otherwise provided in this section.  
165 The penalty provided herein shall not be assessed against the  
166 State of Mississippi upon request for reimbursement under Section  
167 29-1-145, nor shall a municipality clean a parcel owned by the  
168 State of Mississippi without first giving notice. Upon written  
169 authority from the Secretary of State's office, for state-owned  
170 properties, a municipality may forgo the notification process that  
171 is prescribed in this subsection and proceed to clean the  
172 properties and assess costs as prescribed in this subsection,



173 except that penalties shall not be assessed against the State of  
174 Mississippi.

175 (2) When the fee or cost to clean property or a parcel of  
176 land that is one (1) acre or less does not exceed Two Hundred  
177 Fifty Dollars (\$250.00), excluding administrative costs, and the  
178 property or parcel is located within a municipality having a  
179 population over one thousand five hundred (1,500), the governing  
180 authority of the municipality may authorize one or more of its  
181 employees to determine whether the property or parcel of land is  
182 in such a state of uncleanliness as to be a menace to the public  
183 health, safety and welfare of the community and the determination  
184 made by the authorized municipal employee shall be set forth and  
185 recorded in the minutes of the governing authority. Notice of  
186 this determination shall be provided to the property owner by:

187 (a) United States mail seven (7) days before the date  
188 of cleaning of the property or parcel of land mailed to the  
189 address of the subject property, except where the land or  
190 structure(s) is apparently vacant, and to the address where the ad  
191 valorem tax notice for such property is sent by the office charged  
192 with collecting ad valorem tax; and

193 (b) Posting notice for at least seven (7) days before  
194 the cleaning of the property or parcel of land and at city hall or  
195 another place in the municipality where such notices are posted.

196 Any notice required by this subsection shall include language  
197 that informs the property owner that the appropriate municipal





198 official has determined that the property or parcel of land is a  
199 menace to the public health, safety and welfare of the community  
200 and in need of cleaning and the municipality is authorized to  
201 enter the property for cleaning and that the municipality is  
202 further authorized to reenter the property or parcel of land for a  
203 period of two (2) years after this cleaning without any further  
204 hearing or action if notice is posted on the property or parcel of  
205 land and at city hall or another place in the municipality where  
206 such notices are generally posted at least seven (7) days before  
207 the property or parcel of land is reentered for cleaning. A copy  
208 of the required notice mailed and posted as required by this  
209 subsection shall be recorded in the minutes of the governing  
210 authority in conjunction with the determination made by the  
211 municipal employee in this subsection (2).

212 If an authorized municipal employee determines that the  
213 condition of property or parcel of land or the existence of a  
214 homeless encampment is a menace to the public health, safety and  
215 welfare of the community, the governing authority, if the owner  
216 does not do so himself, \* \* \* may proceed to clean the land, or  
217 remove the homeless encampment by the use of municipal employees  
218 or by contract, by cutting grass and weeds; filling cisterns;  
219 securing abandoned or dilapidated buildings; removing rubbish,  
220 abandoned or dilapidated fences, outside toilets, abandoned or  
221 dilapidated buildings, slabs, personal property, which removal of  
222 personal property shall not be subject to the provisions of



223 Section 21-39-21, and other debris; removal of the homeless  
224 encampment and draining cesspools and standing water therefrom.  
225 The governing authority \* \* \* may by resolution adjudicate the  
226 actual cost of cleaning the property under this provision,  
227 provided the same does not exceed \* \* \* Ten Thousand Dollars  
228 (\$10,000.00) and may also impose a penalty not to exceed One  
229 Hundred Dollars (\$100.00) or one hundred percent (100%) of the  
230 actual cost of cleaning the property, whichever is more.  
231 Provided, however, that the cost and any penalty imposed for the  
232 removal of a homeless encampment on private property may be waived  
233 in the discretion of the municipality. The cost and any penalty  
234 imposed may become a civil debt against the property owner,  
235 and/or, at the option of the governing authority, an assessment  
236 against the property. The "cost assessed against the property"  
237 means either the cost to the municipality of using its own  
238 employees to do the work or the cost to the municipality of any  
239 contract executed by the municipality to have the work done, and  
240 additionally may include administrative costs of the municipality  
241 not to exceed Fifty Dollars (\$50.00). For subsequent cleaning  
242 within the one-year period set forth in this subsection (2), upon  
243 seven (7) days' notice posted both on the property or parcel of  
244 land adjudicated in need of cleaning and at city hall or another  
245 place in the municipality where such notices are generally posted,  
246 and consistent with the municipal official's determination as  
247 authorized in this subsection (2), a municipality may reenter the



248 property or parcel of land to maintain cleanliness without further  
249 notice or hearing under this subsection (2) no more than six (6)  
250 times in any twelve-month period with respect to removing or  
251 securing abandoned or dilapidated buildings, slabs, dilapidated  
252 fences and outside toilets, and no more than twelve (12) times in  
253 any twenty-four-month period with respect to cutting grass and  
254 weeds and removing rubbish, personal property and other debris on  
255 the land, and the removal of homeless encampments, and the expense  
256 of cleaning of the property shall not exceed an aggregate amount  
257 of One Thousand Dollars (\$1,000.00) per year under this subsection  
258 (2). The governing authority may assess the same actual costs,  
259 administrative costs and penalty for each time the property or  
260 land is cleaned as otherwise provided in this subsection (2). The  
261 penalty provided herein shall not be assessed against the State of  
262 Mississippi upon request for reimbursement under Section 29-1-145,  
263 nor shall a municipality clean a parcel owned by the State of  
264 Mississippi without first giving notice. Upon written authority  
265 from the Secretary of State's office, for state-owned properties,  
266 a municipality may forgo the notification process that is  
267 prescribed in this subsection and proceed to clean the properties  
268 and assess costs as prescribed in this subsection, except that  
269 penalties shall not be assessed against the State of Mississippi.  
270 A determination made by an appropriate municipal employee under  
271 this subsection (2) that the state or condition of property or a  
272 parcel of land is a menace to the public health, safety and



273 welfare of the community shall not subsequently be used to replace  
274 a hearing if subsection (1) of this section is later utilized by a  
275 municipality when the prerequisites of this subsection (2) are not  
276 satisfied.

277 (3) If the governing authority declares, by resolution, that  
278 the cost and any penalty shall be collected as a civil debt, the  
279 governing authority may authorize the institution of a suit on  
280 open account against the owner of the property in a court of  
281 competent jurisdiction in the manner provided by law for the cost  
282 and any penalty, plus court costs, reasonable attorney's fees and  
283 interest from the date that the property was cleaned.

284 (4) (a) If the governing authority declares that the cost  
285 and any penalty shall be collected as an assessment against the  
286 property, then the assessment above provided for shall be a lien  
287 against the property and may be enrolled in the office of the  
288 chancery clerk of the county as other liens and encumbrances are  
289 enrolled, and the tax collector of the municipality shall, upon  
290 order of the board of governing authorities, proceed to sell the  
291 land to satisfy the lien as now provided by law for the sale of  
292 lands for delinquent municipal taxes. The lien against the  
293 property shall be an encumbrance upon the property and shall  
294 follow title of the property.

295 (b) (i) All assessments levied under the provisions of  
296 this section shall be included with municipal ad valorem taxes and  
297 payment shall be enforced in the same manner in which payment is



298 enforced for municipal ad valorem taxes, and all statutes  
299 regulating the collection of other taxes in a municipality shall  
300 apply to the enforcement and collection of the assessments levied  
301 under the provisions of this section, including utilization of the  
302 procedures authorized under Sections 17-13-9(2) and 27-41-2.

303 (ii) All assessments levied under the provisions  
304 of this section shall become delinquent at the same time municipal  
305 ad valorem taxes become delinquent. Delinquencies shall be  
306 collected in the same manner and at the same time delinquent ad  
307 valorem taxes are collected and shall bear the same penalties as  
308 those provided for delinquent taxes. If the property is sold for  
309 the nonpayment of an assessment under this section, it shall be  
310 sold in the manner that property is sold for the nonpayment of  
311 delinquent ad valorem taxes. If the property is sold for  
312 delinquent ad valorem taxes, the assessment under this section  
313 shall be added to the delinquent tax and collected at the same  
314 time and in the same manner.

315 (5) All decisions rendered under the provisions of this  
316 section may be appealed in the same manner as other appeals from  
317 municipal boards or courts are taken. However, an appeal from a  
318 decision of a municipal officer or official shall be made to the  
319 governing authority and such appeal shall be in writing, state the  
320 basis for the appeal and be filed with the city clerk no later  
321 than seven (7) days from the latest date of notice required under  
322 this section.



323 (6) Nothing contained under this section shall prevent any  
324 municipality from enacting criminal penalties for failure to  
325 maintain property so as not to constitute a menace to public  
326 health, safety and welfare, or for enforcing the provisions of  
327 Section 1 of this act relating to the abatement of homeless  
328 encampments.

329 (7) (a) If private property or a parcel of land located  
330 within a municipality is a perpetual care cemetery subject to  
331 Section 41-43-1 et seq., the governing authority of the  
332 municipality may proceed pursuant to the same provisions of this  
333 section used to determine whether a property is a public health  
334 menace to instead determine if the perpetual care cemetery and all  
335 structures on the cemetery are not being properly maintained and  
336 have become detrimental to the public health and welfare. A  
337 perpetual care cemetery that is "not being properly maintained and  
338 has become detrimental to the public health and welfare" means a  
339 perpetual care cemetery that shows signs of neglect, including,  
340 without limitation, the unchecked growth of vegetation, repeated  
341 and unchecked acts of vandalism, unusable entrances and exits,  
342 excess rubbish or debris, or the disintegration of grave markers  
343 or boundaries. Upon notice and opportunity to be heard as  
344 provided in subsection (1) of this section, the governing  
345 authority of the municipality may adjudicate the property or  
346 parcel of land in its then condition to be not properly maintained  
347 and detrimental to the public health and welfare, and if the owner



348 does not do so itself, may proceed to clean the property or parcel  
349 of land as provided in subsection (1) of this section. When  
350 cleaning the property or parcel of land of a perpetual care  
351 cemetery pursuant to this subsection (7), the penalty or penalties  
352 provided in subsection (1) of this section shall not be assessed  
353 against owners of the perpetual care cemeteries.

354 (b) The governing authority of a municipality that  
355 cleans the property or parcel of land of a perpetual care cemetery  
356 pursuant to this subsection (7) may make application to the  
357 Secretary of State for an order directing the trustee of the  
358 perpetual care cemetery trust fund to release accrued interest or  
359 principal of the trust fund sufficient to reimburse the  
360 municipality for only the actual cleanup costs incurred by the  
361 municipality. The application to the Secretary of State shall  
362 include a statement by the municipality that all of the  
363 requirements of this section have been met.

364 (c) If the Secretary of State is satisfied that the  
365 notice and hearing requirements of this section have been met, and  
366 that the application for an order directing the trustee to release  
367 accrued interest of the perpetual care cemetery trust fund does  
368 not threaten the ability of the trust fund to provide for the care  
369 and maintenance of the cemetery, the Secretary of State may order  
370 the trustee to release accrued interest of the trust fund  
371 sufficient to reimburse the municipality for the actual costs of  
372 cleanup performed by the municipality.



373 (d) If the Secretary of State is satisfied that the  
374 notice and hearing requirements of this section have been met, but  
375 makes a determination that the accrued interest of the perpetual  
376 care cemetery trust fund is insufficient to reimburse the  
377 municipality for the actual costs of cleanup performed by the  
378 municipality, or that an order to release accrued interest would  
379 threaten the ability of the trust fund to provide for the care and  
380 maintenance of the cemetery, the Secretary of State may consider  
381 an order directing the trustee to reimburse the municipality from  
382 the principal of the trust fund. If the Secretary of State  
383 determines that an order to the trustee to release principal from  
384 the trust fund will not threaten the solvency of the trust fund,  
385 the Secretary of State may order the trustee to release principal  
386 of the trust fund in an amount sufficient to reimburse the  
387 municipality for the actual costs of cleanup performed by the  
388 municipality.

389 (i) The Secretary of State may not order the  
390 trustee to release an amount of more than fifteen percent (15%) of  
391 principal of the trust fund to reimburse the municipality for the  
392 actual costs of cleanup performed by the municipality.

393 (ii) The provisions of this section may be  
394 utilized no more than once in a four-year period.

395 **SECTION 3.** This act shall take effect and be in force from  
396 and after July 1, 2025.

